

## **The complaint**

Mr S complains about charges and credit file reports Ald Automotive Limited ("Ald") made after he believed he had returned a car he was hiring through a finance agreement with them.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my decision.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I know it will disappoint Ald, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr S acquired his car under a hire agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

### ***Failure to terminate the agreement***

It's clear that it wasn't Mr S's fault that his old finance agreement was not terminated. I say that because the dealership have accepted responsibility for not telling Ald. I don't think it would be fair to hold Mr S responsible for the failed termination on the basis that he didn't return the settlement quotation form. He clearly expected the dealership to settle the agreement for him, in the same way he explained they have done in the past.

### ***Reporting of missed payments to Mr S's credit file***

I don't think Ald did anything wrong when they initially reported missed payments against Mr S's original agreement as they weren't aware the car had been returned. But by at least 20 December 2020 I think they were aware the car had been returned. I say that because I can see the dealership called them at that point to enquire about the status of the car. As the dealership had the car then I think it's reasonable to suggest that Ald would have been made aware it had been returned.

Mr S has also explained that he was trying to contact Ald without success during the period his payments were being taken and after he thought he'd terminated the arrangement. He's not been able to provide calls or emails prior to January 2021 as he sent them from a previous employer's address and phone. I'm persuaded, on balance, that it is likely he tried to contact Ald during that period as an email he sent to them in January 2021 explains he "*can't get hold of*" them and that he's trying to reclaim his December payment. Mr S has been able to provide call logs that show extensive attempts to contact Ald between January and March 2021. I think it's likely there would have been at least some calls made before that, as Mr S has suggested.

I understand that Ald were operating under pandemic restrictions during the time in question and I don't doubt that would have impacted on their ability to correspond with their customers as well as they would have wanted to. But this activity was during the second and third national lockdown period and I think it's fair to suggest that by then Ald would have had the procedures in place to allow them to communicate effectively. It follows that I don't think it's reasonable to suggest pandemic restrictions prevented Ald from communicating more effectively with Mr S.

Mr S stopped making payments towards all three agreements and I've thought about whether he could have handled that better. I don't think he could have. Mr S has explained that instalments towards all three agreements were being collected under a single direct debit. I think, as I've already mentioned, that it's clear he was struggling to get in touch with Ald. If he had been able to get in touch he would have been able to get his old agreement cancelled. And as he couldn't get in touch with Ald he couldn't arrange to make payments only towards the agreements that were live, so I think it was reasonable for him to cancel the whole direct debit.

Ald have a responsibility to report Mr S's credit performance accurately to the credit reference agencies. I don't think the reports they've made, and that Mr S has shown us were recorded on his file, are now an accurate record. I think they were accrued as a result of the failure of the dealership to terminate the agreement and Ald's failure to respond to and communicate with Mr S.

Ald should therefore remove all of the missed payment markers they placed on Mr S's credit file in relation to all three agreements.

### ***Consequential losses***

Mr S made a mortgage application in February 2022 and has provided evidence from his broker and from the mortgage company that suggests it may have been declined because of the missed payment markers reported on his credit file by Ald.

I've reviewed the credit file from that time and can see there were no other adverse markers on the file.

Ald say they had no responsibility to remove the markers whilst Mr S's complaint was progressing as if there was a need to subsequently reapply them they could be accused of misreporting. I don't think that argument is reasonable. I think by the time the dealership accepted responsibility for not completing the termination of the agreement it was very clear Mr S couldn't be held responsible for the payments, at least on that account. It would therefore have been better for Ald to have removed the markers, at least on that account, at that point.

Mr S would like Ald to compensate him for costs he incurred in making the failed mortgage application and for costs associated with having to take out a mortgage on less favourable terms.

I don't think it would be fair to tell Ald to cover all of those costs as I think Mr S could have mitigated some of them. I think for instance, that he could have made some arrangements to manually pay the agreements he knew were in place at the time.

Ald have already paid Mr S some compensation in respect of delays in collecting the car and, having taken all of the circumstances into account, I think they should pay Mr S an additional £750 to compensate him for the poor communication he received around termination, their failure to remove the credit markers earlier and the costs Mr S incurred, in part, as a consequence of their actions.

### **Putting things right**

Ald should remove any missed payment markers they have reported towards Mr S's agreements since 14 October 2020 when his new agreement started.

They will also need to pay Mr S £750 in compensation for the reasons I've already set out above.

### **My final decision**

For the reasons I've given above I uphold this complaint and tell Ald Automotive Limited to:

- Remove any missed payment markers they have reported towards Mr S's agreements since 14 October 2020 when his new agreement started.
- Pay Mr S £750 in compensation for the distress, inconvenience, and consequential costs he's experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 July 2022.

Phillip McMahon  
**Ombudsman**